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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------|-------------|------------------------|---------------------|------------------|
| 10/019,336 | 12/18/2001 | Alexander Von Gaisberg | 4223/PCT | 8727 |
| 21553 | 7590 | 04/20/2004 | EXAMINER | |
| FASSE PATENT ATTORNEYS, P.A. | | | ROJAS, BERNARD | |
| P.O. BOX 726 | | | ART UNIT | |
| HAMPDEN, ME 04444-0726 | | | PAPER NUMBER | |

2832

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,336

Applicant(s)

GAISBERG ET AL.

Examiner

Bernard Rojas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12182001 12242003
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 08/28/2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., obtaining springs with equal total spring energy) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant has not claimed any specific structure for pre-stressing the springs; applicant merely claims the spring is pre-stressed. Tsuzuki et al. discloses that that the same energy is stored in both springs when they are in the neutral position due to pre-stressing [col. 4 lines 52-55].

Information Disclosure Statement

The information disclosure statement filed 12/18/2001 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsuzuki et al.

Regarding claim 1, an electromagnetic actuator [see figure 1] with two electromagnets [51, 52] arranged at a spacing distance to on another. An armature [6] that is moveable between the electromagnets against the force of two springs [21, 22]. The two springs are pre-stressed in such a manor to store the same amount of energy [col. 4 lines 52-55].

Regarding claim 2, at least one of the springs is nonlinear [col. 2 lines 40-46] therefore; it has a non-linear characteristic curve.

Regarding claim 3, the spring characteristic curve of at least one of the springs comprises a maximum value at a position when the armature is spaced away from the two electromagnets [col. 4 lines 52-55].

Claims 1, 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmitz.

Regarding claim 1, an electromagnetic actuator [see figure 1] with two electromagnets [3, 4] arranged at a spacing distance to on another. An armature [5] that is moveable between the electromagnets against the force of two springs [7, 8].

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The two springs are pre-stressed in such a manor to store the same amount of energy [col. 3 lines 58-67].

Regarding claim 8, a setting means [2.1] for setting the pre-stressing of the spring [7] is provided [col. 4 lines 1-7].

Regarding claim 7, same as claims 1 and 8 previously discussed in this office action. The method is inherent in the product structure.

Regarding claim 9, measuring means [col. 6 lines 16-29] for measuring the progressions of the spring forces are provided.

Regarding claim 10, control means [9, figure 1] for controlling the setting means [col. 6 lines 16-29].

Allowable Subject Matter

Claims 11-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach, nor suggest, in the claimed combination an electromagnetic actuator wherein two springs are pre-stressed so that the same total spring energy is stored in each one of the two springs when the springs are respectively maximally compressed through a spring travel by moving the armature through the spacing distance between the two electromagnets.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

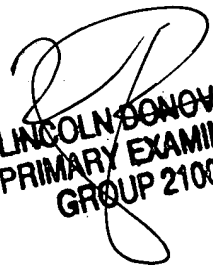
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Rojas whose telephone number is (571) 272-1998. The examiner can normally be reached on M-F 8-4:00), every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Br


LINCOLN DONOVAN
PRIMARY EXAMINER
GROUP 2100